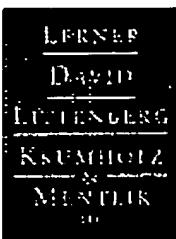


RECEIVED
CENTRAL FAX CENTER

SEP 21 2006



600 SOUTH AVENUE WEST • WESTFIELD, NEW JERSEY 07090
908.654.5000 • FAX 908.654.7866 • WWW.LDLKM.COM

PATENTS, TRADEMARKS, COPYRIGHTS & UNFAIR COMPETITION

Faxsimile Transmittal

To:	Fax Number	Voice Number
Andre Robinson	571-273-5005	
Javier Blanco	903-872-9306 571-273-8300	571-272-4747

From: Michael J. Doherty

Date: September 21, 2006 No. Pages: 1 Original Mailed:

Client/Matter No: SPINE 3.0-446 CONT (SPINE.3752)

• MESSAGE:

NOTICE: The information contained herein is intended only for the addressee identified above. It may be or may include material that is confidential, attorney-client privileged, attorney work product, copyrighted, and/or inside information. If you are not the intended recipient, or a person responsible for delivering this message to the intended recipient, you are hereby notified that the unauthorized use, disclosure, distribution or copying is strictly prohibited and may be in violation of court order or otherwise unlawful. If you have received this transmission in error, please immediately notify us at 908 654 5000 (collect, if necessary) and return this document to us by mail.

694738_1.DOC

RECEIVED
CENTRAL FAX CENTER

002/002

SEP 21 2006

PTO/SB/26 (09-04)

Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A "PRIOR" PATENT		Docket Number (Optional) SPINE 3.0-446 CONT
In re Application of: James D. Ralph, Stephen Tatar, and Joseph P. Errico		
Application No.: 10/7715,969-Conf. #5368		
Filed: November 18, 2003		
For: INTERVERTEBRAL SPACER DEVICE HAVING ARCH SHAPED SPRING ELEMENTS		
<p>The owner*, <u>SpineCore, Inc.</u>, of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent No. <u>11/037,921</u>, as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:</p> <p>expires for failure to pay a maintenance fee;</p> <p>is held unenforceable;</p> <p>is found invalid by a court of competent jurisdiction;</p> <p>is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;</p> <p>has all claims canceled by a reexamination certificate;</p> <p>is reissued; or</p> <p>is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</p> <p>Check either box 1 or 2 below, if appropriate.</p>		
<p>1. <input type="checkbox"/> For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record. Reg. No. <u>40,592</u></p> <p><u>Michael J. Doherty</u> Signature</p> <p><u>September 21, 2006</u> Date</p> <p><u>Michael J. Doherty</u> Typed or printed name</p> <p><u>(908) 518-6337</u> Telephone Number</p> <p><input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) is included.</p> <p>*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.</p> <p><u>571-273-8300 1414</u></p> <p>I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted by facsimile to the Patent and Trademark Office, facsimile nos. (571) 273-5009 and (202) 707-3346, on the date shown below.</p> <p>Dated: September 21, 2006</p> <p>Signature: <u>Michael J. Doherty</u> (Michael J. Doherty)</p>		